

MONTANA LEGISLATIVE HISTORY

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Chapter 15 Sp/Secs Nov 19 93
Bill H 36 S _____ Original bill & history ✓c

H. Committee on TaxationHearing Date(s) Dec 06 ✓cDec 09 ✓c

_____ c

_____ c

Date Out Dec 07 ✓cS. Committee on TaxationHearing Date(s) Dec 14 ✓cDec 15 ✓c

_____ c

_____ c

Dec 15 ✓c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

12/14	TABLED IN COMMITTEE		
12/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
12/16	2ND READING CONCURRED	49	0
12/16	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE WITH AMENDMENTS		
12/17	2ND READING AMENDMENTS CONCURRED	86	11
12/17	3RD READING AMENDMENTS CONCURRED	87	12
12/18	SIGNED BY SPEAKER		
12/18	SIGNED BY PRESIDENT		
12/18	TRANSMITTED TO GOVERNOR		
12/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 14		
	EFFECTIVE DATE: 12/23/93		

INTRODUCED BY WANZENRIED

PROPOSED CONSTITUTIONAL AMENDMENT TO REDUCE THE NUMBER OF DEPARTMENTS ALLOWED IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT FROM 20 TO 12

11/30	INTRODUCED		
11/30	REFERRED TO STATE ADMINISTRATION		
11/30	FIRST READING		
12/02	HEARING		
12/02	COMMITTEE REPORT—BILL PASSED		
12/09	2ND READING PASSED AS AMENDED	52	48
12/09	3RD READING PASSED	50	49
	TRANSMITTED TO SENATE		
12/10	FIRST READING		
12/10	REFERRED TO STATE ADMINISTRATION		
12/14	HEARING		
12/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
12/16	2ND READING CONCURRED	32	18
12/16	3RD READING CONCURRED	32	18
	RETURNED TO HOUSE WITH AMENDMENTS		
12/17	2ND READING AMENDMENTS CONCURRED	53	46
12/17	3RD READING AMENDMENTS CONCURRED	53	44
	COMBINED 3RD READING VOTE	85	62
	BILL FAILED—DID NOT RECEIVE 2/3 VOTE OF LEGISLATURE AS REQUIRED FOR BILLS PROPOSING AMENDMENTS TO CONSTITUTION		

INTRODUCED BY PETERSON

REQUIRE A PERSON TO APPEAR BEFORE THE COUNTY TAX APPEAL BOARD, UNLESS THE REQUIREMENT TO APPEAR IS WAIVED BY THE BOARD, BEFORE AN APPEAL MAY BE MADE TO THE STATE TAX APPEAL BOARD

BY REQUEST OF STATE TAX APPEAL BOARD

11/30	INTRODUCED		
11/30	REFERRED TO TAXATION		
11/30	FIRST READING		
11/30	FISCAL NOTE REQUESTED		
12/03	FISCAL NOTE RECEIVED		
12/04	FISCAL NOTE PRINTED		
12/06	HEARING		
12/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
12/09	2ND READING PASSED	95	2
12/09	3RD READING PASSED	95	3

	TRANSMITTED TO SENATE		
12/10	FIRST READING		
12/10	REFERRED TO TAXATION		
12/14	HEARING		
12/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
12/16	2ND READING CONCURRED AS AMENDED	49	0
12/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
12/17	2ND READING AMENDMENTS CONCURRED	97	2
12/17	3RD READING AMENDMENTS CONCURRED	98	1
12/18	SIGNED BY SPEAKER		
12/18	SIGNED BY PRESIDENT		
12/18	TRANSMITTED TO GOVERNOR		
12/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 15		
	EFFECTIVE DATE: 01/01/94		

HB 37 INTRODUCED BY MOLNAR

PROVIDE AN INCOME TAX CREDIT FOR CERTAIN PROPERTY TAX INCREASES ON A PRIMARY RESIDENCE

12/01	INTRODUCED
12/01	FISCAL NOTE REQUESTED
12/01	REFERRED TO TAXATION
12/01	FIRST READING
12/06	HEARING
12/07	FISCAL NOTE RECEIVED
	DIED IN COMMITTEE

HB 38 INTRODUCED BY HARPER, ET AL.

ESTABLISH A LEGISLATIVE BRANCH MANAGEMENT POLICY; AUTHORIZE CENTRALIZED SERVICES FOR LEGISLATIVE AGENCIES; REVISE THE COMPOSITION OF THE LEGISLATIVE COUNCIL

12/01	INTRODUCED		
12/01	FISCAL NOTE REQUESTED		
12/01	REFERRED TO STATE ADMINISTRATION		
12/01	FIRST READING		
12/04	FISCAL NOTE RECEIVED		
12/06	FISCAL NOTE PRINTED		
12/06	HEARING		
12/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
12/09	2ND READING PASSED	98	1
12/09	3RD READING PASSED	96	1
	TRANSMITTED TO SENATE		
12/10	FIRST READING		
12/10	REFERRED TO FINANCE & CLAIMS		
12/15	HEARING		
12/15	TABLED IN COMMITTEE		

HB 39 INTRODUCED BY ORR

ESTABLISH A PILOT PROGRAM TO LEASE FROM THE PRIVATE SECTOR PASSENGER VEHICLES THAT ARE REQUIRED TO CONDUCT STATE BUSINESS

12/01	INTRODUCED
12/01	FISCAL NOTE REQUESTED
12/01	REFERRED TO APPROPRIATIONS
12/01	FIRST READING
12/06	HEARING
12/06	FISCAL NOTE RECEIVED

HOUSE BILL NO. 36

INTRODUCED BY PETERSON
BY REQUEST OF THE STATE TAX APPEAL BOARD

IN THE HOUSE

NOVEMBER 30, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

DECEMBER 8, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

DECEMBER 9, 1993

SECOND READING, DO PASS.

ENCROSSING REPORT.

THIRD READING, PASSED.
AYES, 95; NOES, 3.

TRANSMITTED TO SENATE.

IN THE SENATE

DECEMBER 10, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

DECEMBER 15, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

DECEMBER 16, 1993

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

DECEMBER 17, 1993

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 36
2 INTRODUCED BY Peterson
3 BY REQUEST OF THE STATE TAX APPEAL BOARD
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSON
6 APPEAR TO BEFORE THE COUNTY TAX APPEAL BOARD BEFORE AN
7 APPEAL MAY BE MADE TO THE STATE TAX APPEAL BOARD; AMENDING
8 SECTIONS 15-2-301, 15-15-103, AND 15-15-104, MCA; AND
9 PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 **Section 1.** Section 15-2-301, MCA, is amended to read:
13 "15-2-301. Appeal of county tax appeal board decisions.
14 (1) The county tax appeal board shall mail a copy of its
15 decision to the taxpayer and to the property assessment
16 division of the department of revenue. Any If the appearance
17 provisions of 15-15-103 have been complied with, a person or
18 the department on behalf of the state or any municipal
19 corporation aggrieved by the action of the county tax appeal
20 board may appeal to the state board by filing with the state
21 tax appeal board a notice of appeal within 30 calendar days
22 after the receipt of the decision of the county board. The
23 notice must specify the action complained of and the reasons
24 assigned for the complaint. Notice of acceptance of an
25 appeal must be given to the county tax appeal board by the

1 state tax appeal board. The state board shall set the appeal
2 for hearing either in its office in the capital or the
3 county seat as the board considers advisable to facilitate
4 the performance of its duties or to accommodate parties in
5 interest. The board shall give to the appellant and to the
6 respondent at least 15 calendar days' notice of the time and
7 place of the hearing.

8 (2) At the time of giving notice of acceptance of an
9 appeal, the state board may require the county board to
10 certify to it the minutes of the proceedings resulting in
11 the action and all testimony taken in connection with its
12 proceedings. The state board may, in its discretion,
13 determine the appeal on the record if all parties receive a
14 copy of the transcript and are permitted to submit
15 additional sworn statements, or the state board may hear
16 further testimony. For the purpose of expediting its work,
17 the state board may refer any appeal to one of its members
18 or to a designated hearing officer. The board member or
19 hearing officer may exercise all the powers of the board in
20 conducting a hearing and shall, as soon as possible after
21 the hearing, report the proceedings, together with a
22 transcript or a tape recording of the hearing, to the board.
23 The state board shall determine the appeal on the record.

24 (3) On all hearings at county seats throughout the
25 state, the state board or the member or hearing officer

designated to conduct a hearing may employ the local court reporter or other competent stenographer to take and transcribe the testimony received. The cost of taking and transcribing testimony may be paid out of the general appropriation for the board.

(4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Section 2. Section 15-15-103, MCA, is amended to read:

"15-15-103. Examination of applicant -- failure to hear application. (1) Before the county tax appeal board grants

any application or makes any reduction applied for, it must shall examine on oath the person or agent making the application, touching the value of the property of each person. No A reduction must may not be made unless such the person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has attended the hearing and answered all questions pertinent to the inquiry. The testimony of all witnesses upon--such at the hearing must be taken in shorthand, or taken by stenotype, or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of the hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in

valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. An application is not automatically granted for the following appeals:

(a) those listed in 15-2-302; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60-day session."

Section 3. Section 15-15-104, MCA, is amended to read:

"15-15-104. Appeal to state tax appeal board. Any If the appearance provisions of 15-15-103 have been complied with, a person or the department of revenue in on behalf of the state or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the state board under 15-2-301."

NEW SECTION. Section 4. Applicability. [This act] applies to all property tax appeals on or after January 1, 1994.

NEW SECTION. Section 5. Effective date. [This act] is effective January 1, 1994.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0036, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation is intended to strengthen and clarify the requirement that a taxpayer, who has filed an appeal of property values at the county level, cannot appeal the local board decision if an appearance was not made at the county level hearing.

ASSUMPTIONS:

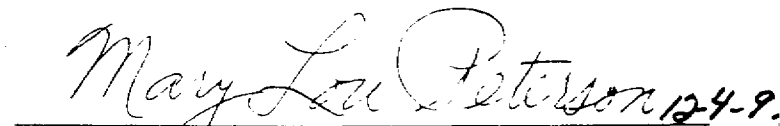
1. The cost per appeal of an appeal filed and heard by a local board varies from \$30 to \$85.
2. The cost per appeal is estimated as high as \$435 once it has reached the state level.
3. The costs involved in holding a hearing at the local level will be incurred whether or not the taxpayer is present for a scheduled hearing.
4. The representative of the Department of Revenue and their associated costs will be incurred whether or not the taxpayer is present for a scheduled hearing at the local level.
5. History indicates that 15% to 20% of the appeals acted on by the local boards proceed to the state level.
6. Recent history indicates that 100% of the appeals filed, where the taxpayer has no intention of appearing at the local level, are coming to the state level.
7. Solving the issue at the lowest level is the most cost effective, both in terms of money and transactional costs.

FISCAL IMPACT:

There is potential for minor general fund savings for the State Tax Appeal Board. The amount of potential savings is inestimable since there is no ability to predict the number of cases that would have been heard at the state level that would, with passage of HB 36, now be heard and resolved at the local level. There is further potential for minor general fund savings for the Department of Revenue insofar as the department will expend less staff time responding to appeals at the state level.

 12-3

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 12-4-9.

MARY LOU PETERSON, PRIMARY SPONSOR DATE
Fiscal Note for HB0036, as introduced

HB 36

HEARING ON HOUSE BILL 36

Opening Statement by Sponsor: REP. MARY LOU PETERSON, HD 1, Eureka, said the bill simply clarifies that in order for a person to make a tax appeal to the State Tax Appeal Board (STAB), he must first have appeared before the county appeal board.

Proponents' Testimony:

Pat McKelvey, Chairman, STAB, said the bill ensures that a taxpayer must first appear and testify under oath before the county tax appeal board before appealing to STAB. He said STAB cannot grant any tax relief if that sequence is not followed.

Dave Woodgerd, Chief Counsel, Department of Revenue (DOR), said DOR supports the bill as it saves quite a bit of money if the issues can be settled at the county level.

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses: None.

Closing by Sponsor: REP. PETERSON closed saying the bill is simply a clarification and simplification measure.

HEARING ON HOUSE BILL 37

Opening Statement by Sponsor: REP. BRAD MOLNAR, HD 85, Laurel, said this is an income tax rebate plan similar to Governor Racicot's plan. Any increase over 10% is rebated and recent voted mill levies are excluded. The rebate applies to primary residences only and is a one time refund. He presented proposed amendments which specify the rebates must be larger than \$25 but are capped at \$400 (Exhibit #1).

Proponents' Testimony: There were no proponents.

Opponents' Testimony: Lance Clark, Montana Association of Realtors, said the Realtors Association opposes the bill based on their historical opposition to property tax rebates.

Questions From Committee Members and Responses:

REP. REAM said there are many factors that influence a property tax from year to year. He asked Rep. Molnar if he would object to some other mechanism such as a five year average as a base figure for determining the amount of rebate.

REP. MOLNAR said he did not object to averaging. He said the important thing is to give a one time rebate.

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

12/6/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Madison COMMITTEE HB 36
HB 37
 DATE 12/6/93 SPONSOR(S) PETERSON MOLNAR FOSTER BILL NO. HB 45

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Leonard Wortman ^{Box H 3041A}	Jefferson County	45	X	
Ally Light ^{Thompson Falls}	-			
Patrick E McKelvey ^{SIAB 2095th Avenue}	State Tax Appeal Bd	36		✓
Carleen Rayne	Montana Arts Council	45	X	
Allyson Fishoyn	" " "	45	X	
Paul Stall	Cultural Advisory	45	X	
Gloria Hermannson	Cultural Advisory	45	X	
Cheryl Norath	Blue Art Center	45	X	
Randy Clark	MT Assoc Realtors	37 45	X	
Rich Hill	Gov Office			✓
Lynn Mavencamp	Gardiner School			
Michelle Kerns	Gardiner School Board			
John Egan	Sweet Grass County High			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

information regarding the impact of various oil price levels on years 1993, 1994, and 1995 could be presented to the Committee by Mr. Johnson.

EXECUTIVE ACTION ON HOUSE BILL 36

Motion: REP. HANSON MOVED HB 36 DO PASS.

Motion/Vote: REP. HANSON MOVED TO AMEND THE TITLE, LINE 6 AS PER THE ATTACHED STANDING COMMITTEE REPORT (CLERICAL CORRECTION AMENDMENT). Motion carried unanimously.

Motion/Vote: REP. HANSON MOVED HB 36 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 45

Motion: REP. FOSTER MOVED HB 45 DO PASS.

Motion: REP. FOSTER MOVED TO AMEND HB 45 AS PER THE ATTACHED EXHIBIT #4.

Discussion: REP. FOSTER said the amendments strike the coal severance tax and school reserves as funding bases for the rebates, reflect the HB 29 provisions that the rebates last for two tax years, and specify that any money left over after the rebates reverts to the general fund. Amendment #6 addresses the property tax reimbursement funding source in HB 20 by developing a formula that breaks down the tax increase in the counties by city and county governments and school districts based on increased valuations. These amendments were devised because of concerns voiced by various committee members and representatives of local governments. The amendments basically reflect the provisions of HB 29 which is the funding mechanism for HB 45. The fiscal impact is \$13.9 million for the biennium plus \$4.6 million for costs associated with the rebates. The funding sources are the cultural trust monies and HB 20 funds with the fund balance used for the remainder.

REP. DRISCOLL asked why amendment #6 specified Class 4 property only. He understood it was to be changed to all taxable property.

Judy Paynter, Deputy Director, DOR, confirmed that the amendment should read "all taxable property".

Motion: REP. DRISCOLL MOVED TO AMEND AMENDMENT #6 CHANGING ALL REFERENCES TO CLASS 4 PROPERTY TO "ALL TAXABLE PROPERTY".



HOUSE STANDING COMMITTEE REPORT

December 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 36 (first reading copy -- white) do pass as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 6.
Following: line 5
Insert: "TO"
Following: "APPEAR"
Strike: "TO"

-END-

Committee Vote:
Yes __, No __.

081644SC.Hcr

MINUTES

MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 14, 1993,
at 9:41 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)

Members Excused: None.

Members Absent: Senators Brown and Yellowtail.

Staff Present: Jeff Martin, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 36, HJR 3, HJR 2, SB 48
Executive Action: HJR 3

HEARING ON HOUSE BILL 36

Opening Statement by Sponsor:

Representative Peterson, House District 1, said HB 36 would make it statutorily clear that any appeal must be brought before the appropriate County Tax Appeal Board (CTAB) before it could be heard by the State Tax Appeal Board (STAB). She stated the property tax appeal process had been structured with that intent, but that there had been some confusion in interpretation. She assured committee members that HB 36 would have no effect upon those appeals currently being processed but would clarify the statute for the future. She noted representatives from STAB were present to provide technical testimony and answer any questions from the Committee.

Proponents' Testimony:

Jere-Ann Nelson, STAB, spoke from prepared testimony in favor of HB 36 (Exhibit #1).

Dave Woodgerd, Chief Legal Counsel, Department of Revenue (DOR), expressed DOR's support for HB 36. He stated it was important for appeals to be heard at the county level because the CTAB was both the best and cheapest place to resolve differences of opinion concerning property valuation.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe stated he found the language on page four troublesome; not only would people be required to attend the CTAB hearing, they would also be required to answer all questions pertinent to the inquiry. If someone attended the hearing but failed to answer the questions to the satisfaction of the department, he noted, they would be denied an appeal under HB 36. He asked if that was STAB's intent. **Jere-Ann Nelson** replied the intent of the language was to ensure that taxpayers present the best possible case on their own behalf and come as prepared as possible so that the CTAB hearing could proceed in a productive manner.

Chair Halligan referred to the previous sentence which pertained to reductions and noted the language **Senator Towe** had cited was existing law.

Senator Towe stated the actual purpose of HB 36 was to require attendance at CTAB hearings. He asked whether an individual who had real reason to miss the hearing without asking for an extension of time, like a heart attack, would be denied an appeal because of their failure to attend. **Jere-Ann Nelson** replied such situations would be considered extenuating circumstances; if either STAB or the CTAB were informed, another hearing would be scheduled. She stated HB 36 was not intended to close the appeals process to anyone, and added both STAB and the CTABs had a long established policy of "really bending over backwards in the case of extenuating circumstances".

Senator Towe asked whether it would be appropriate to add language which specified "unless the appearance is waived by the DOR or by order of the CTAB" to address such extenuating circumstances. **Jere-Ann Nelson** responded DOR had been able to address such situations without having existing language in the statute. **Senator Towe** replied STAB had been generous and willing to take extenuating circumstances under consideration. He noted, however, a problem could arise if STAB was mad at an individual.

Senator Gage stated HB 36 would eliminate taxpayers' current option of bypassing the CTAB and going directly to STAB. He said everyone had prejudices and dislikes of people and, under HB 36, people would not be able to go to STAB if thought they would not get an unbiased hearing at the local level. **Gere-Ann Nelson** stated taxpayers could always appeal any CTAB decision to STAB. She repeated, however, that historically 85 percent of the appeals had been resolved at the county level because the CTAB members live in the community, were aware of the issues and were frequently able to arrive at decisions satisfactory to all parties. She explained if an agent or a person continually circumvented the local review process, the fiscal impact would be tremendous and would constitute a "terrible waste of resources". She stated HB 36 was necessary because one agent had been able to do that and other property tax agents seem to be following suit.

Senator Towe stated the normal way to address such issues would be to require petitioners to exhaust their administrative remedies. He noted HB 36 could be amended to provide that STAB should not entertain an appeal unless those remedies had been exhausted where the appropriate CTAB was identified as one of the remedies. He asked if that language were an acceptable alternative. **Jere-Ann Nelson** replied the purpose of the current wording was to make sure the language contained no ambiguities; STAB would like to have people attend and to have a good record made at the county level. She stated the ambiguity of the current statute was the source of the problem since an agent was able to circumvent the local review process because of the phrase "no reduction may be made". She explained that agent had discovered if he did not attend he would not receive a reduction but could still appeal to STAB and, therefore, would not have to travel to all 56 counties.

Senator Towe posed a situation in which a CTAB looked at an appeal and it was obvious that the petitioner was right. He stated that the language in HB 36 would not allow the CTAB to act accordingly if the petitioner did not attend and answer all the questions. **Gere-Ann Nelson** responded a CTAB could only discern whether a petitioner was right when that person appeared before the board and answered questions.

Senator Towe noted a petitioner could write a letter. **Gere-Ann Nelson** replied letters were allowable, but it was requested that the petitioner's representative also attend and read the letter in case questions were posed that the letter did not address. She emphasized that the appeals process needed to accommodate those petitioners who lived far away.

Closing by Sponsor:

Representative Peterson said she had attended many CTAB hearings, and in her experience, the champion of the taxpayer was at the local not the state level. She explained the people she had witnessed presenting their cases to a CTAB felt like they were

among friends: the county people were local neighbors who had assisted in getting all the pertinent information out and on the table. She concluded that HB 36 would be good for taxpayers and "certainly a savings to the state".

HEARING ON HOUSE JOINT RESOLUTION 3

Opening Statement by Sponsor:

Vicki Cocchiarella, House District 59, said HJR 3 represented the beginning of the "residents protection act". She said Fish Wildlife and Parks (FWP) and DOR currently exchanged information pertinent to determining whether people who buy resident sports permits and licenses were actually Montana residents. She stated HJR 3 would neither noticeably expand the current program nor cost any money, but would provide the next Legislature with the information necessary to decide whether the expansion of the program would benefit and protect Montana taxpayers and residents. She explained HJR 3 would allow FWP and DOR to keep track of the numbers of cases uncovered in which people are fraudulently purchasing resident sports permits and licenses and in which people who claim to be residents are not paying income tax. As a result, **Representative Cocchiarella** said, HJR 3 could help to generate another potential \$5 to \$20 million in revenue by locating such people and enabling their prosecution under current statute.

Proponents' Testimony:

Steve Vinnedge, Game Warden, FWP, informed committee members that in 1989 the Legislature had granted FWP game wardens access to DOR's income data base in order to determine whether or not a person filed as a resident or non-resident on their income taxes. That access, he stated, resulted in a "massive jump" in the number of license fraud cases detected and prosecuted in 1989. He explained that FWP had also developed a sportsmens data base which recorded and allowed computerized access to all licenses sold in Montana. He said in 1989 the Legislature had also enacted a three year statute of limitations for the detection and prosecution of license fraud in recognition of the difficulty of processing these cases. In 1991, he added, the Legislature refined Montana's residency statutes and requirements and added the Montana income tax as a co-requirement for purchasing Montana resident hunting and fishing licenses while also increasing the penalty for violation of the statutes. He said the Legislature further refined Montana's residency statutes applicable to military personnel in 1993.

Mr. Vinnedge stated since 1989 the prosecution and detection of license fraud in Montana increased 342 percent over 1983, the highest year previous to the start of the residency program. He said FWP currently had several programs which matched addresses, the names of males over the age of 25 using the same address,

ROLL CALL

SENATE COMMITTEE TAXATION

DATE December 14, 1993

[illegible]

12/14/93 Testimony on HB 36
Bill Requiring Appearance before CTAB

For the record, my name is Jere-Ann Nelson. I'm here before you on behalf of the State Tax Appeal Board requesting this legislation.

Members of the committee, we urge your favorable consideration of this bill.

Our purpose in proposing this legislation is to clarify and to strengthen the existing language in 15-2-301, 15-15-103 and 15-15-104. The provision for local review exists in Article VIII, Section 7 of the Montana Constitution. Why haven't we attempted to clarify these statutes before now? Frankly, the requirement for the taxpayer to appear before the county tax appeal board has always been assumed by the taxpayer, the county tax appeal boards and the State Tax Appeal Board and has never been an issue before. However, the requirement to appear before the county board is now being tested. We need to tighten the statutory language to support the intent of the statute because, now, a property tax agent has found a "loophole" and has been able to circumvent the local review requirement. Others are following suit and this problem, we fear, could escalate, if not addressed now.

We feel the taxpayer has nothing to lose and everything to gain by appearing before the county board. The county tax appeal board members are local citizens who know the neighborhoods, the community, and the local issues. The county board is able to build a record and to make an informed decision. We feel that there is potentially a sizeable fiscal impact attached to this bill. Historically, the county boards handle about 80 to 85 percent of all property tax appeals filed at a cost ranging from \$30 to \$85 per appeal. When an appeal comes to STAB, the cost escalates to about \$435 per appeal, primarily because the STAB members travel to the county seats to hear an appeal as per statute. If a taxpayer elects not to show up at the county level, for whatever reason, the county board must deny the appeal. As the statutes are currently being interpreted, that denial is an appealable action to STAB. We are proposing that appearance at the county board be a prerequisite to gaining standing before STAB. Frequently, that appearance before the county board will prove satisfactory to both the taxpayer and the Department of Revenue. In addition, it costs the Department of Revenue time, money, and effort to prepare for, and attend a county board hearing, even if the taxpayer or his agent does not show up.

Finally, for cost and efficiency reasons, this Board is authorized to hear an appeal on the record; that is, to make a decision based on the written record submitted to us. If the taxpayer doesn't show up at the county level, there is no record built at the lower level. If there is no county board record, then this Board has lost that cost-saving alternative and must travel to the county seat to hear the appeal.

In closing, we would like to emphasize 3 important points:

- 1) We are not seeking to seemingly change the law, but merely to strengthen and clarify the language behind the original intent of the law;
- 2) The taxpayer is a winner in this situation, as he is given the opportunity to be heard at the local level. (The county boards have always been receptive to changes in scheduling to meet the taxpayers' needs). And, of course, the taxpayer always has the right, if aggrieved at the county level, to appeal to STAB.
- 3) and, something which is very important during the special session, the passage of HB 36 tightens a current money-wasting loophole in the system. The fiscal impact here, we feel, can only be positive.

Thank you very much for your time and consideration of this bill.

DATE 41 November 1993SENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB 48, HB 36, HJR 2, HJR 3

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Check One

Name	Representing	Bill No.	Support	Oppose
NORM TAYLOR	STAB (State Tax Appeal Board)	HB 36	X	
Jewel Ann Nelson	State Tax Appeal Board	HB 36	X	
Ucky Hammond	MT Assoc. Realtors	SB 48		X
Tom Hopgood	MT ASSOC REALTORS	SB 48		✓
Mike Beale	MT Assoc. Realtors	SB 48		✓
Dave Woodgerd	Dept. of Revenue	HB 36	X	
Patli Foster	State Tax Appeal Board	HB 36	X	
Gregory A. Van Housen	Income Property Manager Northern Landlord Assn	SB 48		✓
Nancy Griffin	MT Building Industry	SB		✓
Leonard Wortman	Self Co.			
Paul Ruffalo	Self Co.			
Gordon Morris	MACO	SB 48	✓	
David Owen	MT Chamber	SB 48		✓
Rand Griffin	MT Retail Assoc	SB 48		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HOUSE BILL 57**Motion:**

Senator Harp MOVED HB 57 BE CONCURRED IN.

Discussion:

Senator Harp stated HB 57 was important and the issue would not go away. He said the sooner the Senate acted on HB 57 the easier it would be to figure out how to fit the federal retiree refunds and property tax rebates into the school funding bill, HB 22, and the general appropriation bill, HB 2. He noted the Committee was a very sophisticated one and expressed his hope that committee members would support his motion. He stated the fact that the taxes were taken illegally was undisputed, and, he added, it was "high time" that the Legislature lived up to its responsibilities.

Using the chair's discretion, **Chair Halligan** ruled **Senator Harp's** motion out of order. He noted there was other legislation which the Committee needed to take action on, and assured **Senator Harp** that the Committee would take action on HB 57 within 24 to 48 hours.

EXECUTIVE ACTION ON HOUSE BILL 36**Discussion:**

Senator Towe distributed amendments to HB 36 (Exhibit #12). He explained the amendments would insert language into HB 36 which would comply with its original intent but state it "a little bit differently". He outlined the actual changes the amendments would make. He commented that the normal procedure in such instances was to require an exhaustion of remedies, but the amendment would further clarify that concept because of the particular needs of the county tax appeal boards (CTAB). He noted that the amendments would also allow either DOR or the CTAB to waive the requirements of appearing in person.

Motion:

Senator Towe moved TO AMEND HB 36 (Exhibit #12).

Discussion:

Senator Stang asked the representatives of the State Tax Appeal Board (STAB) whether they concurred with the amendments. **Patty Foster, STAB**, said the language proposed in the amendments appeared very similar in intent and content to STAB's intent. She stated the main purpose of HB 36 was to close an apparent loophole in current statute. She agreed with the first amendment, and stated that people were sworn under oath before

their testimony at any hearing, so the second amendment would be a mute point.

Senator Towe asked whether STAB objected to removing the reference to "all questions" and replacing it with the phrase "available for questions". **Ms. Foster** asked whether that language would specify available only in person, or also by telephone. She noted that phrase also had the potential to be loosely interpreted. **Senator Towe** responded the language in the amendments would allow either the person or their agent to be present or otherwise available for questions. He asked if that was sufficient. **Ms. Foster** replied she was not sure.

Senator Van Valkenburg noted that **Senator Towe** seemed to be equating an appearance before a CTAB to a criminal proceeding in which the taxpayer would have the status of a criminal defendant and the need for their right against self-incrimination. He stated the two were not parallel; a taxpayer who was protesting their taxes was akin to a party in a civil suit. He noted a party in a civil suit could be called by the opposing party and was required to answer all questions in the law suit.

Senator Towe asked what if the taxpayer has some very legitimate reason to refuse to answer a question. He asked **Senator Van Valkenburg** if he would want that individual to automatically lose their right to any adjustment on taxes. He noted that would be the result of the current language in HB 36. **Senator Van Valkenburg** asked what a legitimate reason would be for not answering a question. **Senator Towe** responded a taxpayer might want to take the 5th Amendment or the question might be a matter of privacy. **Senator Van Valkenburg** noted **Senator Towe** had once again compared a CTAB hearing to a criminal case.

Senator Towe replied an individual could assert the 5th Amendment in a non-criminal case. He stated he was making the comparison with a criminal case because in a criminal case an individual had an absolute right not to testify. He stated the amendments would require taxpayers' to appear and testify, but would also preserve their right to appeal.

Senator Van Valkenburg asked **Ms. Foster** if she would like to comment. **Ms. Foster** replied in the circumstance **Senator Towe** had described, if the taxpayers had attended the county hearing and were aggrieved by the CTAB decision, they would retain the right to appeal to STAB. She repeated HB 36 would clarify the law so that the local review process could not be by-passed. She stated HB 36 clearly reflected the intent of the Constitution and existing statute.

Vote:

The MOTION TO AMEND HB 36 (Exhibit #12) CARRIED 8 TO 2 by ROLL CALL VOTE

Motion/Vote:

Senator Towe moved HB 36 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 42

Discussion:

Senator Towe passed out a set of proposed amendments to SB 42 (Exhibit #13).

At **Chair Halligan's** request, **Senator Bartlett** explained the amendments. She noted that amendment 6 would clarify the point at which a taxpayer was eligible for the credit. She stated that the remainder of the amendments would do two things. First, they would reduce the maximum credit allowable from \$800 to \$400, which is existing maximum in state law for the elderly homeowner renter credit. Second, they would limit the credit and the expansion of the elderly homeowner renter credit to tax year 1994. She explained that in tax year 1993, people would have paid one-half of their property taxes at the higher rate. She noted in tax year 1994 property owners would pay that elevated level both in May and November of 1994. She stated by moving this credit into tax year 1994, it was likely that more people who needed the relief would be eligible for it in that specific tax year.

Motion:

Senator Towe moved TO AMEND SB 42 (Exhibit #13).

Discussion:

Senator Brown asked **Senator Bartlett** what effect the amendments would have on the fiscal note. **Senator Bartlett** distributed a chart (Exhibit #14) and called the Committee's attention to it. She stated the original version of SB 42 would have cost about \$20 million over the biennium and, as amended, SB 42 would cost \$7.66 million.

Vote:

The MOTION TO AMEND SB 42 CARRIED with **Senators Brown** and **Harp** voting NO.

Motion/Vote:

Senator Towe moved SB 42 DO PASS AS AMENDED. The MOTION CARRIED with **Senators Brown, Gage, Grosfield** and **Harp** voting NO.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 36 (third reading copy -- blue), respectfully report that House Bill No. 36 be amended as follows and as so amended be concurred in.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 6.

Following: "BOARD"

Insert: ", UNLESS THE REQUIREMENT TO APPEAR IS WAIVED BY THE BOARD OR THE DEPARTMENT OF REVENUE,"

2. Page 4, line 9.

Strike: "attended" through "all" on line 9.

Insert: "exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing or otherwise be available to answer"

3. Page 4, line 10.

Following: "inquiry."

Insert: "The department of revenue or the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing."

-END-

Mr Amd. Coord.
SB Sec. of Senate


Senator Carrying Bill

151356SC.Sma

ROLL CALL VOTE

SENATE COMMITTEE

TAXATION

BILL NO. HB 36

DATE December 15, 1993

TIME 12:05

A.M. P.M.

NAME

YES

NO

[illegible]

Both Sätze

SECRETARY

Senator Mike Halligan

CHAIR

MOTION: ^{to adopt} Jew's amendment to HB 36 (Exhibit #12)

Amendments to House Bill No. 36
Third Reading Copy

Requested by Senator Towe
For the Committee on Taxation

Prepared by Jeff Martin
December 14, 1993

1. Page 4, lines 9.

Strike: "attended" through "all" on line 10

Insert: "exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing or otherwise be available to answer"

2. Page 4, line 10.

Following: "inquiry."

Insert: "The department of revenue or the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing."